

Before the State of South Carolina
Department of Insurance

In the matter of:)	Order Revoking Nonresident
)	Insurance Agent's License
Kevin H. Baugher)	
)	File No.: 100177
3301 Woman's Club Drive, #141)	
Raleigh, North Carolina 27612.)	
_____)	

This matter comes before me pursuant to an Order of Dismissal issued by the Honorable Ralph King Anderson, III, Administrative Law Judge, on March 10, 2000.

The South Carolina Department of Insurance initiated its action to revoke Kevin H. Baugher's nonresident insurance agent's license by serving upon him a Letter of Allegation and Notice of Opportunity for a Public Hearing, as required within S.C. Code Ann. § 38-3-170 (Supp. 1998), both by certified mail, return receipt requested, and by regular mail at his last known address of record. Baugher, thereafter, requested a public hearing and the Department filed an Agency Transmittal Form with the Administrative Law Judge Division. This case was assigned to the Honorable Ralph King Anderson, III, Administrative Law Judge and a hearing was scheduled for February 17, 2000. On February 10, 2000, Judge Anderson granted the Department's motion for a continuance. He also requested that Baugher contact the ALJD within five days of receiving a copy of the Order Granting Continuance. Baugher failed to comply with Judge Anderson's interlocutory order, so the Department filed its Notice of Motion and Motion to Dismiss. On March 10, 2000, Judge Anderson issued his Order of Dismissal, subjecting Baugher to the Department's penalties in this matter (see attached). Therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The Department's Letter of Allegation and Notice of Opportunity for a Public Hearing alleged, and I now find as fact, that Baugher willfully misstated facts in applications for health insurance policies with American Republic Insurance Company. This conduct is a direct violation of S.C. Code Ann. § 38-43-130 (Supp. 1999), which provides that the Director of Insurance "may revoke . . . an agent's license . . . when it appears that an agent has . . . wilfully deceived or dealt unjustly with the citizens of this State." That Code section further states that the words "deceived or dealt unjustly with the citizens of this State" includes, under subparagraph (1), "misstating the facts in an application for insurance or aiding in the misstatement of facts".

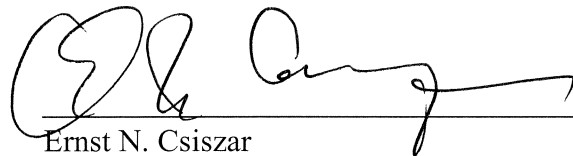
In accordance with my findings of fact, and considering the Administrative Law Judge's Order of Dismissal, I now conclude, as a matter of law, that Smith willfully deceived and/or dealt unjustly with citizens of this State, thereby violating S.C. Code Ann. § 38-43-130 (Supp. 1999).

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-40-10, *et seq.* (1991 and Supp. 1999). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report".

It is, therefore, ordered that the license of Kevin H. Baugher to do business as a nonresident insurance agent within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Kevin H. Baugher is currently licensed, through the State of South Carolina Department of Insurance, as a nonresident insurance agent within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in black ink, appearing to read "Ernst N. Csiszar", is written over a horizontal line.

Ernst N. Csiszar
Director

March 16, 2000
Columbia, South Carolina

On February 8, 2000, this office received a Motion for Continuance from Amelia R. Linder, attorney for the Department of Insurance (Department), setting forth that her witnesses were coming from Iowa and needed additional time to designate a company representative to testify and to make travel arrangements. This motion was granted on February 10, 2000, and the hearing was not immediately rescheduled at that time. On that date, the Respondent was forwarded the Order granting the continuance, along with a cover letter requesting Mr. Baugher to contact this office within five (5) days of receipt of the letter and Order. These mailings were sent both certified and regular U.S. mail.

On February 24, 2000, Ms. Linder filed a Notice of Motion and Motion to Dismiss this action pursuant to Rule 23 of the Rules of Procedure for the Administrative Law Judge Division. Rule 23 provides:

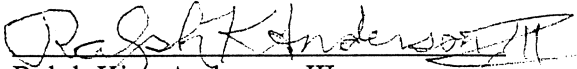
The administrative law judge may dismiss a contested case or dispose of a contested case adverse to the defaulting party. A default occurs when a party fails to plead or otherwise prosecute or defend, fails to appear at a hearing without the proper consent of the judge or fails to comply with any interlocutory order of the administrative law judge. Any non-defaulting party may move for an order dismissing the case or terminating it adversely to the defaulting party.

(Emphasis added). This office has not received any returned correspondence or verbal communication from the Respondent as of the date of this Order of Dismissal. In other words, Mr. Baugher has not communicated to the Division that he wishes to diligently pursue this matter after being requested to make such communication. "There is a limit beyond which the court should not allow a litigant to consume the time of the court" Georgian Apparel, Inc. v. Todd, 303 S.C. 87, 92, 399 S.E. 2d 16, 19 (Ct. App. 1990). Therefore, because the Respondent did not contact the

Division after being requested to do so, has failed to claim his certified mailings, and has not otherwise contacted this tribunal regarding this hearing as of the date of this Order,

IT IS HEREBY ORDERED that the above-captioned case is dismissed with prejudice.

AND IT IS SO ORDERED.


Ralph King Anderson, III
Administrative Law Judge

March 10, 2000
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date
served the papers in the above entitled case
on the parties named in the caption and on all
persons known to be parties to the case and on the
persons named in the caption as mail addressees
(the party or parties named).

This 10th day of March, 2000

By Elizabeth L. Brown
Judicial Law Clerk